

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

## I.(a) PLAINTIFFS

Nike, Inc.

## DEFENDANTS

Antonio D. Carpenter, an individual and d/b/a Pro Styles Barbershop and Does 1 through 10, inclusive

E-FILING

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

Washington County

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Santa Clara County

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

J. Andrew Coombs A.P.C., Annie S. Wang, 517 E. Wilson Ave., Suite 202, Glendale, CA 91206 / (818) 500-3200

ATTORNEYS (IF KNOWN)

C 08 03261 BZ

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question  
(U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State ☐ PTF ☐ DEFCitizen of Another State ☐ PTF ☐ DEFCitizen or Subject of a Foreign Country ☐ PTF ☐ DEFIncorporated or Principal Place of Business In This State ☐ PTF ☐ DEFIncorporated and Principal Place of Business In Another State ☐ PTF ☐ DEFForeign Nation ☐ PTF ☐ DEF

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☒ Original Proceeding☐ Removed from State Court☐ Remanded from Appellate Court☐ Reinstated or Reopened☐ Transferred from Another district (specify)☐ Multidistrict Litigation☐ Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

## CONTRACT

- ☐ 110 Insurance  
☐ 120 Marine  
☐ 130 Miller Act  
☐ 140 Negotiable Instrument  
☐ 150 Recovery of Overpayment & Enforcement of Judgment  
☐ 151 Medicare Act  
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)  
☐ 153 Recovery of Overpayment of Veteran's Benefits  
☐ 160 Stockholders Suits  
☐ 190 Other Contract  
☐ 195 Contract Product Liability  
☐ 196 Franchise

## TORTS

## PERSONAL INJURY

- ☐ 310 Airplane  
☐ 315 Airplane Product Liability  
☐ 320 Assault Libel & Slander  
☐ 330 Federal Employers Liability  
☐ 340 Marine  
☐ 345 Marine Product Liability  
☐ 350 Motor Vehicle  
☐ 355 Motor Vehicle Product Liability  
☐ 360 Other Personal Injury

## PERSONAL INJURY

- ☐ 362 Personal Injury Med Malpractice  
☐ 365 Personal Injury Product Liability  
☐ 368 Asbestos Personal Injury Product Liability

## PERSONAL PROPERTY

- ☐ 370 Other Fraud  
☐ 371 Truth in Lending  
☐ 380 Other Personal Property Damage  
☐ 385 Property Damage Product Liability

## FORFEITURE/PENALTY

- ☐ 610 Agriculture  
☐ 620 Other Food & Drug  
☐ 625 Drug Related Seizure of Property 21 USC 881  
☐ 630 Liquor Laws  
☐ 640 RR & Truck  
☐ 650 Airline Regs  
☐ 660 Occupational Safety/Health  
☐ 690 Other

## LABOR

- ☐ 710 Fair Labor Standards Act  
☐ 720 Labor/Mgmt Relations  
☐ 730 Labor/Mgmt Reporting & Disclosure Act  
☐ 740 Railway Labor Act  
☐ 790 Other Labor Litigation  
☐ 791 Empl.Ret. Inc. Security Act

## BANKRUPTCY

- ☐ 422 Appeal 28 USC 158  
☐ 423 Withdrawal 28 USC 157

## PROPERTY RIGHTS

- ☐ 820 Copyrights  
☐ 830 Patent  
☒ 840 Trademark

## SOCIAL SECURITY

- ☐ 861 HIA (1395ff)  
☐ 862 Black Lung (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID Title XVI  
☐ 865 RSI (405(g))

## FEDERAL TAX SUITS

- ☐ 870 Taxes (US Plaintiff or Defendant)  
☐ 871 IRS - Third Party 26 USC 7609

## OTHER STATUTES

- ☐ 400 State Reapportionment  
☐ 410 Antitrust  
☐ 430 Banks and Banking  
☐ 450 Commerce/ICC Rates/etc.  
☐ 480 Deportation  
☐ 470 Racketeer Influenced and Corrupt Organizations  
☐ 810 Selective Service  
☐ 850 Securities/Commodities/Exchange  
☐ 875 Customer Challenge 12 USC 3410  
☐ 891 Agricultural Acts  
☐ 892 Economic Stabilization Act  
☐ 893 Environmental Matters  
☐ 894 Energy Allocation Act  
☐ 895 Freedom of Information Act  
☐ 900 Appeal of Fee Determination Under Equal Access to Justice  
☐ 950 Constitutionality of State Statutes  
☐ 890 Other Statutory Actions

## REAL PROPERTY

- ☐ 210 Land Condemnation  
☐ 220 Foreclosure  
☐ 230 Rent Lease & Ejectment  
☐ 240 Torts to Land  
☐ 245 Tort Product Liability  
☐ 290 All Other Real Property

## CIVIL RIGHTS

- ☐ 441 Voting  
☐ 442 Employment  
☐ 443 Housing  
☐ 444 Welfare  
☐ 440 Other Civil Rights  
☐ 445 Amer w/ disab - Empl  
☐ 446 Amer w/ disab - Other  
☐ 480 Consumer Credit  
☐ 490 Cable/Satellite TV

## PRISONER PETITIONS

- ☐ 510 Motion to Vacate Sentence Habeas Corpus:  
☐ 530 General  
☐ 535 Death Penalty  
☐ 540 Mandamus & Other  
☐ 550 Civil Rights  
☐ 555 Prison Condition

## VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Trademark infringement, 15 U.S.C. Sections 1051, et seq.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ ☐ CHECK YES only if demanded in complaint: UNDER F.R.C.P. 23 JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND☒ SAN JOSE

ORIGINAL

DATE

6-26-08

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44  
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a). F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.



J. Andrew Coombs (SBN 123881)  
Annie S. Wang (SBN 243027)  
J. Andrew Coombs, A P. C.  
517 E. Wilson Ave., Suite 202  
Glendale, California 91206  
Telephone: (818) 500-3200  
Facsimile: (818) 500-3201

[andy@coombspc.com](mailto:andy@coombspc.com)  
[annie@coombspc.com](mailto:annie@coombspc.com)

Attorneys for Plaintiff,  
Nike, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Nike, Inc.

Plaintiff,

v.

Antonio D. Carpenter, an individual and d/b/a  
Pro Styles Barbershop and Does 1 through 10,  
inclusive,

Defendants.

C08 03261 BZ

Complaint for: Trademark Infringement;  
Trademark Dilution; Unfair Competition;  
and State Law Unfair Competition

Plaintiff Nike, Inc. ("Nike") alleges as follows:

**I. Jurisdiction and Venue**

1. This Court has jurisdiction over the subject matter of this claim pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

**II. Intra-District Assignment**

2. Pursuant to Civ. L-R 3.2(c) Plaintiff alleges that this is an intellectual property action. Plaintiff is informed and believes that the Defendant resides in Santa Clara County.

///

///

COPY

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E-FILING

JUL 07 2008  
Richard W. Wieking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

AJR

### 1        **III. Introduction**

2            1.        This action has been filed by Nike to combat the willful sale of unlicensed and  
3 counterfeit products, specifically including its core product of sports shoes, bearing Nike's  
4 exclusive trademarks. Defendants in this action are sellers of counterfeit Nike branded shoes  
5 through a retail outlets located in the greater San Jose area. Through such active importation,  
6 purchasing, distributing, offering of sale and selling such unlicensed and counterfeit footwear, Nike  
7 is irreparably damaged through consumer confusion, dilution and tarnishment of its valuable  
8 trademarks.  
9

10           2.        Nike seeks a permanent injunction, damages, costs and attorney's fees as authorized  
11 by the Lanham Act and California law.  
12

### 13        **IV. The Parties**

14           3.        Nike is a corporation duly organized and existing under the laws of the State of  
15 Oregon having its principal place of business in Beaverton, Oregon.

16           4.        Nike is informed and believes, and based thereon alleges, that defendant Antonio D.  
17 Carpenter ("Carpenter") is an individual resident in the City of San Jose, California. Nike is  
18 further informed and believes that Carpenter does business as Pro Styles Barbershop in the city of  
19 San Jose, California. Nike is further informed and believes and based thereon alleges that  
20 defendant Carpenter had the right and ability to supervise or control the infringing activity alleged  
21 herein and that he had a direct financial interest in such activity. In addition or alternatively  
22 defendant Carpenter had knowledge or reason to know of the infringing activity and took actions  
23 which contributed to such activity.  
24

25           5.        Nike is informed and believes, and upon that basis alleges, that defendants John  
26 Does 1-10 are entities or individuals who are residents in this judicial district and are subject to the  
27 jurisdiction of this Court. Nike is informed and believes, and upon that basis alleges, that Does 1 –  
28

1 10 are entities or individuals who are manufacturing, distributing, importing, displaying,  
2 advertising, promoting, selling and/or offering for sale, merchandise in this judicial district which  
3 infringes the Nike Trademarks. The identities of the various Does are unknown to Nike at this  
4 time. Upon information and belief, said fictitiously named defendants are liable to Nike on the  
5 basis of the same allegations made herein against the named defendants. Nike will seek leave to  
6 amend this Complaint to insert the true names and capacities when the same are ascertained. The  
7 Doe defendants and Carpenter are collectively referred to herein as "Defendants".  
8

9 **V. FACTUAL BACKGROUND**

10 6. Nike is engaged in the manufacture, design and sale of footwear, apparel and related  
11 accessories. Among other products, Nike manufactures, sells and distributes basketball and running  
12 shoes. Products manufactured and sold by Nike are sold bearing the "NIKE" mark, or an arbitrary  
13 and distinctive emblem which has come to be known as the "Swoosh Design," or a composite mark  
14 consisting of the word "NIKE" and the "Swoosh Design." Nike utilized these marks on shoes and  
15 apparel as trademarks of Nike's high quality products. Nike also developed and utilized the "Nike  
16 Air" and "Just Do It" marks as a trademark for its shoes and apparel. Nike sells in excess of  
17 \$13,000,000,000 a year in merchandise bearing its distinctive trademarks.  
18

19 7. All products noted above are sold with the "NIKE," "Swoosh Design" or composite  
20 "NIKE" and "Swoosh Design" marks. Nike adopted and used the "NIKE" and "Swoosh Design"  
21 marks in 1971. Nike registered the "NIKE" mark in block letters on November 2, 1982,  
22 Registration No. 1,214,930 in class 25 for footwear. Nike registered the "Swoosh Design" on  
23 March 5, 1985, Registration No. 1,323,343 in class 25 for footwear. Nike registered the composite  
24 mark of "NIKE" and the "Swoosh Design" Registration no. 1,325,938 on March 19, 1985, for in  
25 class 25 for footwear. And, more recently, Nike has registered the "NIKE AIR" mark, Registration  
26 No. 1,284,386 on July 3, 1984 for footwear in class 25; the "AIR JORDAN" mark, Registration No.  
27  
28

1,370,283 on November 12, 1985 for footwear and apparel in class 25; the "AIR JORDAN" Design, Registration No. 1,742,019 on December 22, 1992 for apparel and sports bags, backpacks and apparel in classes 18 and 25; the "AIR JORDAN" Design, Registration No. 1,558,100 on September 26, 1989 in class 25 for footwear and apparel; and the "JUST DO IT" mark, Registration No. 1,875,307 on January 24, 1995 in class 25 for apparel. These are some, but by no means all, of Nike's federal trademark registrations. Each of The Nike Trademarks have been registered with the United States Patent and Trademark Office pursuant to the Lanham Act (15 U.S.C. § 1051). A list of Nike's federal trademark registrations are attached hereto as Exhibit "A". (The trademarks identified in Exhibit "A" are collectively referred to herein as the "Nike Trademarks.") All of the Nike Trademarks are current and in full force and effect. Many of the marks have become incontestable pursuant to 15 U.S.C. § 1065. Additionally, all of the Nike Trademarks qualify as famous marks pursuant to 15 U.S.C. § 1125.

8. The Nike Trademarks are distinctive when applied to the high quality apparel, footwear and related merchandise signify to the purchaser that the products come from Nike and are manufactured to the highest quality standard. Whether Nike manufactures the products itself, or licenses others to do it, Nike has insured that products bearing its trademarks are manufactured to such standard. Nike's products have been widely accepted by the public and are enormously popular, as demonstrated by billions of dollars in sales each year.

9. This enormous popularity is not without cost, as evidenced by the increasing number of counterfeiters in the United States and around the world. Indeed, it is a modern irony that companies measure success by the extent of their counterfeiting problem.

## **VI. DEFENDANTS' UNLAWFUL CONDUCT**

10. Defendants are involved in the manufacture, purchase, distribution, offering for sale and/or sale of counterfeit and/or infringing footwear bearing the Nike Trademarks to the general

1 public. Defendants do through so through the retail outlet owned controlled and/or managed by  
2 them located in the city of San Jose in the County of Santa Clara. Nike is informed and believes  
3 that the defendants persist in their unlawful sale of counterfeit merchandise infringing the Nike  
4 Trademarks despite prior notice to them in the form of cease and desist letters served upon them or  
5 their employees.  
6

7 **FIRST CLAIM FOR RELIEF**

8 **(Trademark Infringement)**

9 11. Nike hereby repeats and alleges the allegations set forth in paragraphs 1 through 10  
10 above, as if set forth fully herein.

11 12. Nike's claim arises under Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114  
12 and 1125, for infringement of registered and unregistered marks.  
13

14 13. Nike owns the exclusive trademark rights to those trademarks listed on Exhibit "A".  
15 All of the trademark registrations are in full force and effect. In many instances the trademarks  
16 have become incontestable pursuant to 15 U.S.C. § 1065.

17 14. All advertising and products, including apparel, footwear, watches, jewelry and  
18 related merchandise, which have been sold by Nike, or under its authority, have been manufactured  
19 and distributed in conformity with the provisions of the United States trademark law.  
20

21 15. Notwithstanding Nike's well known and prior common law and statutory rights in  
22 the Nike Trademarks, Defendants have, with actual and constructive notice of Nike's federal  
23 registration rights, and long after Nike established its rights in the Nike Trademarks, adopted and  
24 used the Nike Trademarks in conjunction with the manufacture, purchase, distribution, offer of sale  
25 and sale of footwear in the State of California and in interstate commerce.

26 16. Defendants have caused to be imported, distributed, offered for sale and sold  
27 footwear bearing one or more of the Nike Trademarks without the authorization of Nike.  
28



1 Defendants' manufacture, purchase, distribution, offer for sale and sale of footwear and related  
2 merchandise bearing the Nike Trademarks in California, and in interstate commerce has and is  
3 likely to cause confusion, deception and mistake or to deceive as to the source and origin of the  
4 footwear and related merchandise in that the buying public will conclude that the products sold by  
5 Defendants are authorized, sponsored, approved or associated with Nike.  
6

7 17. Such confusion, deception and mistake has occurred as a direct result of  
8 Defendants' display, advertising and promotion, both in-store and otherwise, of the infringing  
9 footwear and other merchandise.

10 18. Upon information and belief, Defendants' activities have also caused actual  
11 confusion with consumers as to the source and origin of such footwear and other merchandise.  
12

13 19. Defendants' infringing activities will cause irreparable injury to Nike if Defendants  
14 is not restrained by the Court from further violation of Nike's rights, as Nike has no adequate  
15 remedy at law.

16 20. Nike has suffered damages as a result of the aforesaid acts. Defendants has profited  
17 from its unlawful activities. Unless Defendants' conduct is enjoined, Nike and its goodwill and  
18 reputation will continue to suffer irreparable injury which cannot be adequately calculated or  
19 compensated solely by money damages. Accordingly, Nike seeks preliminary and permanent  
20 injunctive relief pursuant to 15 U.S.C. § 1116.  
21

22 21. Defendants' use in commerce of The Nike Trademarks in the sale of footwear and  
23 related merchandise is an infringement of Nike's registered trademarks in violation of 15 U.S.C. §§  
24 1114(1) and 1125.

25 22. Defendants committed the acts alleged herein intentionally, fraudulently,  
26 maliciously, willfully, wantonly and oppressively with the intent to injure Nike and its business.  
27  
28



1 Accordingly, Nike is entitled to a judgment of three times its damages and Defendants' profits,  
2 together with reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

3 23. In order to determine the full extent of such damages, including such profits, Nike  
4 will require an accounting from each defendant of all monies generated from the manufacture,  
5 importation, distribution and/or sale of the infringing footwear as alleged herein.  
6

7 24. The unlicensed footwear bearing the Nike Trademarks, which was sold, distributed  
8 and offered for sale by Defendants constitutes counterfeit products pursuant to 15 U.S.C. §  
9 1116(d).

10 **SECOND CLAIM FOR RELIEF**

11 **(Lanham Act - Unfair Competition)**

12 25. Nike hereby repeats and realleges the allegations set forth in paragraphs 1 through  
13 24 above, as if set forth fully herein.  
14

15 26. Nike's claim arises under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and  
16 (d) for false designation of origin and false descriptions and representations in interstate commerce.

17 27. As a direct result of Nike's longstanding use, sales, advertising and marketing, the  
18 Nike Trademarks have acquired secondary and distinctive meaning among the public who have  
19 come to identify the Nike Trademarks with Nike and its products.  
20

21 28. The unauthorized and counterfeit footwear and related merchandise which has been  
22 manufactured, purchased, distributed, offered for sale and sold by Defendants, duplicates and  
23 appropriates the Nike Trademarks in order to delude and confuse the public into believing that such  
24 footwear and related merchandise are authorized, sponsored, approved or associated with Nike.

25 29. Defendants, by misappropriating and using the likenesses of the Nike Trademarks in  
26 connection with the sale of such products, are misrepresenting and will continue to misrepresent  
27 and falsely describe to the general public the origin and sponsorship of their products. Defendants  
28

1 has caused such products to enter into interstate commerce willfully, with full knowledge of the  
2 falsity of the designation of their origin and description and representation in an effort to mislead  
3 the purchasing public into believing that their products are authorized or emanate from Nike.  
4

5 30. Such confusion, deception and mistake has occurred as a direct result of  
6 Defendants' display, advertising and promotion, both in-store and otherwise, of the infringing  
7 footwear and other merchandise.

8 31. Defendants' use in commerce of the Nike Trademarks in the sale of footwear and  
9 related merchandise is an infringement of Nike's registered trademarks in violation of 15 U.S.C. §  
10 1125.  
11

12 32. Defendants have profited from their unlawful activities. Unless Defendants'  
13 conduct is enjoined, Nike and its goodwill and reputation will continue to suffer irreparable injury  
14 which cannot be adequately calculated or compensated solely by money damages. Accordingly,  
15 Nike seeks preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

16 33. Nike has suffered monetary damages as a result of Defendants' acts. In order to  
17 determine the full extent of such damages, including such profits as may be recoverable; Nike will  
18 require an accounting from Defendants of all monies generated from the manufacture, importation,  
19 distribution and/or sale of the infringing footwear as alleged herein.  
20

21 34. Accordingly, Nike is entitled to a judgment of three times its damages and  
22 Defendants' profits, together with reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

23 **THIRD CLAIM FOR RELIEF**

24 **(Lanham Act - Dilution of Famous Mark)**

25 35. Nike hereby repeats and realleges the allegations set forth in paragraphs 1 through  
26 34, above, as if set forth fully herein.  
27

28 36. Nike's claim arises under Section 43 of the Lanham Act, 15 U.S.C. § 1125(c).

1           37. As a result of Nike's continuous promotion of its products in conjunction with the  
2 Nike Trademarks, the Nike Trademarks have become recognized as distinctive and famous  
3 trademarks.

4           38. Defendants' use in commerce of the Nike Trademarks began after the Nike  
5 Trademarks had become famous and has caused dilution of the distinctive quality of the marks.  
6 Such conduct has caused injury to Nike pursuant to 15 U.S.C. § 1125(c).

7           39. Such dilution has occurred as a direct result of Defendants' display, advertising and  
8 promotion, both in-store and otherwise, of the infringing footwear and other merchandise.

9           40. Defendants willfully intended to trade on Nike's reputation and/or to cause dilution  
10 of the famous trademarks. Accordingly, Nike is entitled to recover its damages, as well as  
11 Defendants' profits received as a result of the infringement, pursuant to 15 U.S.C. § 1117(a).

12           41. Unless Defendants' conduct is enjoined, Nike and its goodwill and reputation will  
13 suffer irreparable injury which cannot be adequately calculated or compensated solely by money  
14 damages. Accordingly, Nike seeks permanent injunctive relief pursuant to 15 U.S.C. § 1116 and  
15 15 U.S.C. § 1125(c) (1).

16  
17  
18                           **FOURTH CLAIM FOR RELIEF**

19                           **(For Unfair Competition – California Law)**

20           42. Nike hereby repeats and realleges the allegations set forth in paragraphs 1 through  
21 41, above, as if set forth fully herein.

22           43. The Nike Trademarks have acquired secondary meaning indicative of origin,  
23 relationship, sponsorship and/or association with Nike. The purchasing public is likely to attribute  
24 to Nike the use by Defendants of the Nike Trademarks or any of them, as a source of origin,  
25 authorization and/or sponsorship for Defendants' goods and therefore to purchase such goods  
26 based upon that erroneous belief.  
27  
28

1           44. Nike is informed and believes, and upon that basis alleges, that Defendants have  
2 intentionally appropriated the Nike trademarks with the intent of causing confusion, mistake and  
3 deception as to the source of their goods and with the intent to palm off such goods as those of  
4 Nike and, as such, Defendants has committed trademark infringement, misleading advertising and  
5 unfair competition, all in violation of the California Unfair Business Practices Act, Cal. Bus. &  
6 Prof. Code, § 17200, *et seq.*

7  
8           45. Defendants' appropriation, adoption and use of one or more of the Nike  
9 Trademarks, including the sale and offering for sale of infringing shoes bearing or using one or  
10 more of the Nike Trademarks in connection with the provision of goods is likely to cause confusion  
11 between Defendants' infringing product and the goods authorized and licensed by the Nike, thus  
12 constituting a violation of the California Unfair Business Practices Act, Cal. Bus. & Prof. Code, §  
13 17200, *et seq.*

14  
15           46. Nike is informed and believes, and upon that basis alleges, that these deceptive,  
16 unfair and fraudulent practices have been undertaken with knowledge by Defendants of their  
17 wrongfulness. Nike is informed and believes, and upon that basis alleges, that Defendants' use of  
18 Nike's trademarks is for the willful and calculated purpose of misappropriating Plaintiffs' goodwill  
19 and business reputation, at Nike's expense and at no expense to Defendants. By taking one or  
20 more of the Nike Trademarks, Nike has been deprived of an opportunity to conduct business using  
21 its trademarks and deprived of the right to control the use of its trademarks and Defendants has  
22 been unjustly enriched.

23  
24           47. Nike has no adequate remedy at law and has suffered and is continuing to suffer  
25 irreparable harm and damage as a result of Defendants' acts in an amount thus far not determined  
26 but within the jurisdiction of this Court.



50. By reason of the foregoing acts of unfair competition, Nike is entitled to restitution from Defendants of all income, gains, profits and advantages resulting from their wrongful conduct in amounts to be determined according to proof at trial.

52. Nike is informed and believes, and upon that basis alleges, that Defendants committed the acts alleged herein intentionally, fraudulently, maliciously, willfully, wantonly and oppressively, with intent to injure Nike in its business and with conscious disregard for Nike's rights, thereby justifying awards of punitive and exemplary damages in amounts sufficient to punish and to set an example for others.

**(Dilution under California Law)**

### Nike v. Carpenter: Complaint

56. Nike has no adequate remedy at law and Defendants' conduct, if not enjoined, will continue to cause irreparable damage to Nike's rights in their trademarks, trade name, reputation and goodwill.

WHEREFORE, Nike demands entry of a judgment against defendant as follows:

- ### Nike v. Carpenter: Complaint

1 relate or connect, or tend to relate or connect, such products in any way to  
2 Nike, or to any goods sold, manufactured, sponsored or approved by, or  
3 connected with Nike;

4 c) making any statement or representation whatsoever, or using any false  
5 designation of origin or false description, or performing any act, which can  
6 or is likely to lead the trade or public, or individual members thereof, to  
7 believe that any products manufactured, distributed or sold by defendant are  
8 in any manner associated or connected with Nike, or are sold, manufactured,  
9 licensed, sponsored, approved or authorized by Nike;

10 d) engaging in any other activity constituting unfair competition with Nike, or  
11 constituting an infringement of any of Nike's trademarks or of Nike's rights  
12 in, or to use or to exploit, said trademarks, or constituting any dilution of any  
13 of Nike's names, reputations, or good will;

14 e) effecting assignments or transfers, forming new entities or association or  
15 utilizing any other device for the purpose of circumventing or otherwise  
16 avoiding the prohibitions set forth in Subparagraphs (a) through (d);

17 f) secreting, destroying, altering, removing or otherwise dealing with the  
18 Unauthorized Products or any books or records which may contain any  
19 information relating to the importing, manufacturing, producing,  
20 distributing, circulating, selling, marketing, offering for sale, advertising,  
21 promoting or displaying of all unauthorized products which infringe any of  
22 Nike's trademarks; and

23 g) aiding, abetting, contributing to or otherwise assisting anyone from  
24 infringing upon Nike's trademarks.  
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27  
28

- 1           2)     Directing that Defendants deliver for destruction all Unauthorized Products,  
2                 including footwear, and labels, signs, prints, packages, dyes, wrappers, receptacles  
3                 and advertisements relating thereto in their possession or under their control bearing  
4                 any of the Nike Trademarks or any simulation, reproduction, counterfeit, copy or  
5                 colorable imitations thereof, and all plates, molds, heat transfers, screens, matrices  
6                 and other means of making the same.  
7
- 8           3)     Directing such other relief as the Court may deem appropriate to prevent the trade  
9                 and public from gaining the erroneous impression that any products manufactured,  
10                sold or otherwise circulated or promoted by defendant are authorized by Nike, or  
11                related in any way to Nike's products.  
12
- 13          4)     That Nike be awarded from Defendants, as a result of Defendants' sale of  
14                 Unauthorized Products bearing the Nike Trademarks, three times Nike's damages  
15                 there from and three times of each of Defendants' profits there from, after an  
16                 accounting, or, in the alternative, statutory damages, should Nike opt for such relief,  
17                 consisting of One Million Dollars (\$1,000,000.00) for each of the Nike Trademarks  
18                 infringed upon by each of the Defendants, pursuant to 15 U.S.C. § 1114 and § 1117.  
19
- 20          5)     That Nike be awarded from Defendants three times Nike's damages there from and  
21                 three times Defendants' profits there from, after an accounting, pursuant to 15  
22                 U.S.C. § 1125(a) and § 1117.  
23
- 24          6)     That Nike be awarded its reasonable attorney's fees and investigative fees pursuant  
25                 to 15 U.S.C. § 1117.  
26
- 27          7)     That Nike be awarded punitive damages for Defendants' willful acts of unfair  
28                 competition under California law.

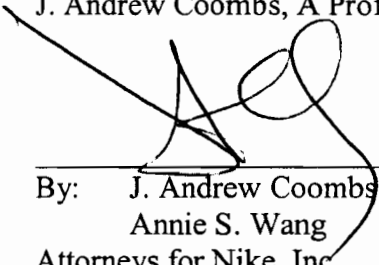


1           8)     That Nike be awarded its costs in bringing this action.

2           9)     That Nike have such other and further relief that this Court deems just.

3     Dated: June 26, 2008

J. Andrew Coombs, A Professional Corp.

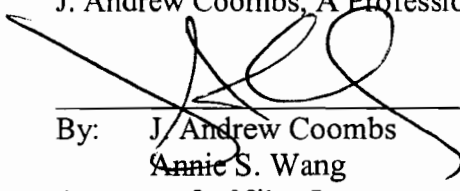
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6           By:  \_\_\_\_\_  
7                 J. Andrew Coombs  
8                 Annie S. Wang  
9                 Attorneys for Nike, Inc.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Nike Inc. hereby demands a trial by jury of all issues so triable.

DATED: June 26, 2008

J. Andrew Coombs, A Professional Corp.

By:   
Annie S. Wang  
Attorneys for Nike, Inc.

**EXHIBIT A**Nike Registrations for Footwear  
International Class 25

Trademark	Registration Number	Registration Date
AIR-SOLE	1,145,812	January 13, 1981
SWOOSH	1,200,529	July 6, 1982
NIKE	1,214,930	November 2, 1982
Nike® and Swoosh® Design	1,237,469	May 10, 1983
Nike®	1,277,066	May 8, 1984
Swoosh® Design	1,284,385	July 3, 1984
NIKE AIR w/Swoosh device	1,284,386	July 3, 1984
NIKE AIR	1,307,123	November 27, 1984
Air Jordan®	1,370,283	November 12, 1985
Swoosh device on shoe	1,323,342	March 5, 1985
Swoosh device	1,323,343	March 5, 1985
NIKE w/Swoosh device	1,325,938	March 19, 1985
AIR JORDAN	1,370,283	November 12, 1985
AIR MAX	1,508,348	October 11, 1988
AIR TRAINER	1,508,360	October 11, 1988
Jump Man device	1,558,100	September 26, 1989
Nike Air®	1,571,066	December 12, 1989
AIR SKYLON	1,665,479	November 19, 1991
AIR SOLO FLIGHT	1,668,590	December 17, 1991
AIR FLIGHT	1,686,515	May 12, 1992
AIR DESCHUTZ	1,735,721	November 24, 1992
Jump Man device	1,742,019	December 22, 1992
AIR TRAINER MAX	1,789,463	August 24, 1993
AIRMAX in oval	2,030,750	January 14, 1997
AIR UPTEMPO in crest	2,032,582	January 21, 1997
AIR with Swoosh device	2,068,075	June 3, 1997
NIKE with Swoosh device	2,104,329	October 7, 1997
ACG NIKE in triangle	2,117,273	December 2, 1997
Nike®	2,196,735	October 13, 1998
Nike® and Swoosh® Design	2,209,815	December 8, 1998
Stylized "B"	2,476,882	August 14, 2001
NIKE ALPHA PROJECT as device	2,517,735	December 11, 2001
WAFFLE RACER	2,652,318	November 19, 2002
PHYLITE	2,657,832	December 10, 2002
TRUNNER	2,663,568	December 17, 2002
DRI-STAR	2,691,476	February 25, 2003
PRESTO	2,716,140	May 13, 2003
TRIAX	2,810,679	February 3, 2004
WAFFLE TRAINER	2,893,674	October 12, 2004

1	THERMA-STAR	2,960,844	June 7, 2005
2	NIKE SHOX	2,970,902	July 19, 2005
3	STARTER	2,971,216	July 19, 2005
4	Basketball player outline	2,977,850	July 26, 2005
5	NIKEFREE	3,087,455	May 2, 2006

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